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Self-Help Stabilization Programs

with use of

Marketing Agreements And Orders

GENERAL
EXPLANATION

QUESTIONS and ANSWERS

U.S. DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

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This publication replaces two processed pamphlets on self-help stabilization programs entitled, "FACT SHEET" (referred to in this publication as GENERAL EXPLANATION) and "QUESTIONS AND ANSWERS".

PART I (GENERAL EXPLANATION) discusses how self-help stabilization programs may be carried out through the use of marketing agreements and orders. It outlines provisions of enabling legislation, discusses the general intent and purpose of the programs, and describes measures which may be applied under the legislation authorizing marketing agreement and order use.

PART II (QUESTIONS AND ANSWERS) provides general background information on main provisions of the enabling legislation. Various commodities will have problems particular to the industry, and specific applications of marketing agreement and order provisions will vary to some degree with each. PART II is an attempt to answer many of the questions which may arise.

Marketing agreements and orders were authorized by the Agricultural Marketing Agreement Act of 1937, which re-enacted and amended the Agricultural Adjustment Act of 1933. Numerous amendments have been included through the years. The Agricultural Act of 1961 extended use of marketing agreements and orders to include any agricultural commodity not excluded in the Act.

PART I

GENERAL EXPLANATION

LEGISLATIVE BACKGROUND

Federal legislation authorizing the use of agreement and licenses for regulating the handling of (1) milk and dairy products, and (2) specialty crops, particularly fruits, vegetables and nuts, originated in the Agricultural Adjustment Act of 1933. Amendments to the Act in 1935, and passage of the Agricultural Marketing Agreement Act of 1937, clarified program use and procedures, defined types of control to be used, substituted orders for licenses, and specifically listed the commodities to be included in the programs.¹

The Agricultural Act of 1961 (Public Law 87-128, approved August 8, 1961) extends the programs by making eligible for inclusion any agricultural commodity not specifically excluded in the Act, and authorizes the Secretary of Agriculture to consult with farmers, farm organizations and handlers on possible need for additional program legislation. The Act opens the way to wider use of self-help stabilization programs and reflects the desire of the administration and the intent of Congress to give farmers the legal tools needed to take an active role in reducing the cost of farm programs and in preventing the accumulation of surpluses.

ROLE OF SELF-HELP PROGRAMS

The self-help programs are designed to establish and maintain orderly market conditions for commodities, moving in or affecting interstate or foreign commerce, at fair prices to the consumer, and with equitable return to the producer and handler. Their purpose is to give to the farmer some of the marketing advantages long enjoyed by industry.

The programs differ from other agricultural adjustment measures in that they combine voluntary and regulatory control—initiated, set up and directed by the industry. Each industry bears the costs of administering the program. The programs also demand aggressive group participation in their operation and development, with resultant interest and emphasis placed upon furthering agricultural private enterprise.

¹ An Amendment in 1947 authorized the establishment of minimum standards of quality and maturity for commodities other than milk. The Agricultural Act of 1954 authorized fixing the size, capacity, weight, dimensions, or pack of containers used in packaging crop commodities. The Act also authorized program use of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of any eligible commodity other than milk, and provision for orderly flow of commodities to market.

The self-help programs differ from others, too, in that the enabling legislation imposes no control over the marketing of any commodity. Neither does it provide that any control will necessarily be established. It is *enabling legislation only*. The programs are initiated for specified commodities by growers and handlers. After a request is made to the Secretary of Agriculture by the industry, and after studies show that the proposed step permitted by the enabling law is practical, and is of benefit both to the industry and to the consumer, the Secretary initiates proceedings, including a formal hearing, for the issuance of an order. The part played by government is that required to protect the interest of individuals and the general public.

The most important departure in the 1961 Act from preceding legislation is the Section (8c(2)) which expands the statute to include *any* agricultural commodity other than those particularly excluded in the provision (see list at end). Prior legislation had limited eligible commodities to those specifically listed in the statute. The orders can be applied on a regional or a nationwide basis.

MARKETING AGREEMENTS AND ORDERS DEFINED

A *Marketing Agreement* is voluntary. It is a contract entered into by the Secretary of Agriculture with handlers of a particular commodity, including producers so engaged. It is binding only on those who sign it. Legislation provides that the agreements are not in violation of the anti-trust laws. A marketing agreement alone is seldom effective.

A *Marketing Order* is mandatory. It is issued by the Secretary of Agriculture and is binding on all handlers of the commodity concerned in the specified production or marketing area, regardless of whether they have signed an agreement. An order may be issued for a commodity only if at least two-thirds of the producers, or those who produce two-thirds of the volume, approve the order by referendum. A two-thirds majority means two-thirds of those voting in the referendum, and not two-thirds of all growers in the industry. Handlers of at least one-half the volume must have signed an agreement to have it made effective with an order. However, an order may be issued by the Secretary when he finds it is the only practicable way to carry out the objectives of the Act—even though the necessary number of handlers have not signed.

There are no milk marketing agreements in effect at the present time. Most vegetable and fruit orders are accompanied by marketing agreements. Many fruit and vegetable cooperatives serve as handlers and therefore are important signers of the agreements.

GENERAL DIVISION OF PROGRAMS

Marketing agreement and order programs were originally set up for the two general types of commodities (milk and other commodity crops) because of the great difference in marketing problems of the industries.

Fluid milk, a highly perishable commodity, must be delivered to the consumer at a relatively constant rate. Also, milk is usually shipped by producers to one consuming market. Other commodity crop producers, however, are normally concentrated in areas favorable to the production of their commodity, and ship their products to many scattered consuming markets.

The approach to protection of farmer income and market supply varies for the two general commodity types.

In the case of milk, regulations involve (1) classification according to use, and (2) fixing of minimum prices handlers must pay to producers for the various uses. Prices of milk for fluid distribution are set at a higher level than prices for other uses.

Regulations for other commodities approach the problem of producers' prices indirectly. Quantity, quality, and rate of shipment to market are controlled, and prices received by producers are indirectly affected.

Three main types of regulations have been used in the general crop programs—those of rate of flow, regulation of grade and size, and surplus management.

STARTING, AMENDING, AND TERMINATING PROGRAMS

Following are the steps usually taken in setting up a self-help program for any commodity for which marketing orders are authorized:

1. A proposed agreement and order program is formulated by industry groups. The Secretary of Agriculture also has authority to initiate a program.

2. The proposed program, together with a request for a public hearing, is submitted to the Secretary. *The Secretary does not plan or outline a program*—this originates and is planned by the commodity group concerned.

3. After due notice (not less than 15 days after date of publication of hearing notice in the Federal Register) the hearing (or series of hearings, as necessary) is held. Interested parties may enter evidence. They also may file written briefs or arguments, and proposed findings or conclusions, after the close of the hearings.

4. A recommended decision, with terms of the program set forth as supported by evidence presented at the hearing, is prepared and published by the Department of Agriculture.

5. Interested parties may file exceptions to the decision.

6. A final decision is issued by the Secretary.

7. The proposed marketing agreement is submitted for execution by handlers, and the regulatory program is submitted to producers for approval through a referendum.

8. Handlers of not less than 50 percent of the volume of the commodity must sign the agreement (for California citrus fruit the percentage is 80). Voting in referendum, producers accept the program when two-thirds approve, or when those producing two-thirds of the commodity in terms of volume approve. (Orders for California citrus fruits and individual handler pools in milk orders require approval by three-fourths of the affected producers.)

9. After required approval, the Secretary may then make the marketing order effective. The Secretary may issue an order even if the required proportion of handlers fails to sign the agreement, if it is the only practicable means of advancing the interests of producers, if it has received the necessary producer approval, and if he finds refusal or failure of the handlers to sign tends to prevent accomplishing the declared policy of Congress.

10. An order becomes effective not less than 30 days after its publication in the Federal Register, unless the Secretary sets an earlier date.

11. Handlers who feel that the order or any provision of it is not lawful may file a petition with the Secretary requesting that the order be modified or that they be exempted from its provisions. After a hearing, the Secretary makes a decision which, if not accepted by the handler, may be appealed (within 20 days) to a District Court of the United States for review.

Whether or not a program is established depends primarily upon its feasibility as presented and supported in public hearing. It is upon the evidence submitted and entered into the record that the Secretary makes his decision.

The proposed program must apply to the problems of the industry, offer a well-founded plan for market stabilization, protect the income of producers and protect the consumer. Careful and full presentation of all facts is necessary.

The procedure for amending orders is much the same as for instituting an order, but less time (3 days) for notice of hearing may be involved.

A marketing order, or any provisions of an order, must be terminated whenever the Secretary of Agriculture finds it no longer tends to achieve the declared policy of the enacting legislation. An order must be terminated by the Secretary at the end of a current marketing period, whenever more than half the producers, who produced during the representative period more than half the volume of the commodity, request a termination.

(For complete reference, Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Orders, were published in the *Federal Register* on June 28, 1960, 25 F.R. 5907.)

REGULATORY PROVISIONS IN PROGRAMS (Other Than Milk)

Marketing agreement and order programs may be set up on a nationwide basis, unless expressly limited to specific areas by legislation, if substantiated by findings by the Secretary of Agriculture.

Commodity marketing orders must provide for one or more of the following:

(1) specifying grades, size, quality, or maturity of the commodity that handlers may ship to market;

(2) allotting the amount which each handler may purchase or handle on behalf of any and all producers;

(3) establishing the quantity of the commodity that may be shipped to market during any specified period, the total quantity being allocated among all handlers under a uniform rule on the basis of past performance, or the proportionate amount of the commodity the handler has available for current shipment;

(4) establishing methods for determining the extent of any surplus, for control and disposition of the surplus, and for equalizing the burden of surplus elimination among producers and handlers;

(5) establishing a reserve pool of the product, and equitable distribution to all financially interested parties for returns derived from the sale of the pool;

(6) inspecting the commodity;

(7) fixing of the size, capacity, weight, dimensions or pack of the container used in handling of the commodity.

Marketing orders also must contain provisions to achieve one or more of the following:

(1) to prohibit unfair methods of competition and unfair trade practices in the handling of the commodity;

(2) to require handlers to file their selling prices, and to sell at prices no lower than those filed—(handlers may change their prices at any time, but adequate notice must be given);

(3) to provide for the selection by the Secretary of Agriculture of an agency to administer the order. (Marketing orders for milk have provided for a Federal Milk Market Administrator, who is appointed by the Secretary.)

In addition, a marketing order for crops may contain provisions to establish marketing research and development projects designed to assist, improve or promote the marketing, distribution and consumption of the commodity or product.

ADMINISTRATION OF CROP PROGRAMS

Administration of programs for commodities other than milk is handled by a board of producers, or of producers and handlers, selected by the Secretary of Agriculture. Members may represent both producers and handlers and are selected from a slate recommended to the Secretary by the groups concerned. The boards carry out regulations as issued by the Secretary.

Boards make administrative rules, investigate, and report to the Secretary complaints of violations and recommend amendments.

Boards are required to keep books; make audits; analyze growing and marketing conditions; give notice of meetings; and make recommendations to the Secretary as to regulations and policies under the order. The Secretary supervises administration of orders by boards, and their actions are subject to his approval.

Boards are authorized to employ necessary staffs to carry out their responsibilities in administration of orders.

The expenses of the board, as set forth in budgets and as approved by the Secretary, are defrayed by assessments on the industry according to provisions of the order. Generally, excess funds are either credited to handlers' accounts against future operations, or returned to handlers at the end of each marketing season upon request.²

FOREIGN IMPORT RESTRICTIONS

Whenever the grade, size, quality, or maturity of the following commodities produced in the United States is regulated by an order, the importation of any such commodity is prohibited unless the imported commodity complies with the same or comparable restrictions: tomatoes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, eggplants, and dates (other dates for processing). Inspection is required at point of importation.

² Activities of boards are further governed by requirements of the Administrative Procedure Act; regulations of the U.S. Department of Agriculture as published in the Code of Federal Regulations, and bylaws of the board.

MILK MARKETING ORDERS

The purpose of milk marketing orders is to insure orderly marketing and stable prices to producers for their milk, and to assure that an ample supply of wholesome milk is available to consumers at all times.

General procedure as to hearings for establishing an order follows that described for crop orders.

The basic framework of each milk order, however, includes the fixing of minimum prices which must be paid to producers according to the use for which the milk is sold, a plan for equalizing prices to producers, and provisions relating to the administration of the order provisions.

Each order also provides for a Federal Milk Market Administrator, appointed by the Secretary of Agriculture, to administer the program. His principal duty is to make certain that handlers account accurately for their milk receipts and make payments to producers in accordance with the terms and provisions of the order. He may be responsible for more than one marketing area.

The Market Administrator's staff investigates the handler's business and audits his records to be certain that the required minimum prices are paid to producers.

Milk orders do not control production, nor do they restrict the marketing of milk by farmers.

The marketing area is defined in each order. All handlers who sell milk within the marketing area are regulated by the order and are required to pay the prescribed minimum prices to producers for all milk produced for the marketing area.

There are two methods of distributing returns to farmers for milk delivered to handlers under the system of classified prices:

1. In a marketwide pool, the announced price paid to producers is uniform for all producers of milk sold in that market, inasmuch as it represents a blend of the combined class values of all the milk produced for the marketing area by all producers.

2. In individual-handler pools, prices received by all producers delivering milk to any one handler are uniform, but they may differ from prices received by producers delivering milk to other handlers, depending upon differences in the utilization of milk by the various handlers.

Base-rating plans have been used in some markets. A producer receives one price for a certain part of his milk and a lower price for milk produced in excess of this base amount. The base amount for an individual producer is usually determined in accordance with his deliveries during the season of low production for the market as a whole.

OTHER LEGISLATIVE PROVISIONS

1. No marketing order or agreement can prohibit, regulate or restrict the advertising of any commodity or product covered by its provisions.

2. No order can regulate a producer in his capacity as a producer.

3. State and local committees, or an association of producers, may be established by the Secretary of Agriculture to aid in the more effective administration of his functions.

4. Cooperative associations of producers may vote for their members as a unit on acceptance or rejection of an order, and to act as agents to distribute payments.

5. The Secretary of Agriculture may continue provisions of an order for the remainder of any marketing season or marketing year even if prices received by producers exceed parity if the regulation originated during that period, to avoid a disruption of the orderly marketing of that commodity.

PENALTIES FOR PROGRAM VIOLATION

Three types of action may be taken by the Department of Justice against violators of marketing orders:

1. Civil action to obtain judgment for accrued obligations and to require compliance by injunction. This action helps to prevent further violation of the order.

2. Civil action for exceeding handler quotas. If the prosecution is successful, the offender is required to pay a sum equal to current market value of the commodity shipped in excess of a quota or allotment.

3. Criminal action. If convicted of making false representations or other illegal acts in connection with a marketing program, the offender may be fined not less than \$50 nor more than \$500 for each violation. Each day the violation continues may be considered a separate violation.

The Department of Justice may also institute criminal action in appropriate cases under a statute pertaining to frauds against, or the furnishing of false information to, the United States, and criminal or civil contempt action for contempt incident to violation of injunctions.

COMMODITY LISTS

Fruits, Vegetables and Nut Programs

There are marketing agreements and orders in effect for fruits, vegetables and nuts, as of September 1, 1961, in the following areas:

Citrus fruits—Grapefruit (Arizona and California); Lemons (California and Arizona); Limes (Florida); Oranges, Grapefruit, Tangerines and Tangelos (Florida); Oranges and Grapefruit (Texas); Navel Oranges (Arizona and California) and Valencia Oranges (Arizona and California).

Other fruits—Apricots (Washington); Avocados (Florida); Cherries (Washington); Dates (California); Grapes for Crushing (California); Tokay Grapes (California); Nectarines (California); Peaches (Colorado, Georgia, Utah, and Washington); Bartlett Pears, Plums, and Elberta Peaches (California); Winter Pears (Oregon, Washington, and California); Dried Prunes (California); Fresh Prunes (Idaho-Oregon, and Washington-Oregon) and Raisins (California).

Potatoes—Colorado; Idaho and Oregon; New England, other than Maine; Oregon and California; Red River Valley of North Dakota and Minnesota; Eastern South Dakota; Washington; Tidewater counties of Virginia and North Carolina.

Vegetables—Carrots (Texas); Cucumbers (Florida); Lettuce (Texas); Onions (Idaho-Oregon, Texas); Peas and Cauliflower (Colorado); Tomatoes (Florida and Texas).

Tree Nuts—Almonds (California); Filberts (Oregon and Washington); Walnuts (California, Oregon, and Washington).

OTHER PROGRAMS

Anti-hog-cholera serum and hog cholera virus.

EXCLUDED COMMODITIES

Commodities excluded in the 1961 act from marketing orders and agreements were:

honey	sugarbeets
cotton	wool
rice	mohair
wheat	livestock
corn	soybeans
grain sorghums	flaxseed
oats	poultry (but turkeys excepted)
barley	eggs (but turkey hatching eggs excepted)
rye	
sugarcane	

Fruits and vegetables for canning or freezing, excepting asparagus, olives, grapefruit, cherries, and cranberries.

Apples excluded in all States but Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut.

Apples for canning and freezing permitted in above States, excepting Washington, Oregon, and Idaho.

FEDERAL MILK MARKETING ORDERS IN EFFECT OCT. 1, 1961

Appalachian	Inland Empire
Austin-Waco	Kansas City
Black Hills	Knoxville
Boston	Louisville-Lexington
Cedar Rapids-Iowa City	Memphis
Central Arizona	Michigan Upper Peninsula
Central Arkansas	Milwaukee
Central Mississippi	Minneapolis-St. Paul
Central West Texas	Mississippi Delta
Chattanooga	Mississippi Gulf Coast
Chicago	Muskegon
Cincinnati	Nashville
Clarksburg	Neosho Valley
Colorado Springs-Pueblo	New Orleans
Columbus	New York-New Jersey
Connecticut	North Central Iowa
Corpus Christi	North Central Ohio
Dayton-Springfield	Northeastern Ohio
Des Moines	Northeastern Wisconsin
Duluth-Superior	Northern Louisiana
Eastern Colorado	North Texas
Eastern South Dakota	Ohio Valley
Fort Smith, Arkansas	Oklahoma Metropolitan
Fort Wayne, Indiana	Omaha-Lincoln-Council Bluffs
Great Basin	Ozarks
Indianapolis	Paducah

Philadelphia
Platte Valley
Puget Sound
Quad Cities-Dubuque
Red River Valley
Rockford-Freepport
San Antonio
Sioux City
Sioux Falls-Mitchell, S.D.
South Bend-LaPorte-Elkhart
Southeastern Florida
Southeastern New England
Southern Michigan
Southwest Kansas
Springfield, Mass.

St. Joseph
St. Louis
Suburban St. Louis
Texas Panhandle
Toledo
Tri-State
Upper Chesapeake Bay
Upstate Michigan
Washington, D.C.
Western Colorado
Wheeling
Wichita
Wilmington, Delaware
Worcester
Youngstown-Warren

PART II

QUESTIONS AND ANSWERS

1. *Q. What is a marketing agreement?*

A. A marketing agreement is voluntary. It is a contract entered into by the Secretary of Agriculture with handlers of a particular commodity. It is binding only to those handlers who sign it. A marketing agreement alone is seldom effective.

2. *Q. What is a marketing order?*

A. A marketing order is a legal document setting the limits within which an agricultural industry can operate a program of self-regulation. It defines the terms handler and producer, the commodity to be regulated and the area to be covered. It provides for an Advisory Board to administer the order, the number of members, and terms of office. It lists the economic tools to be used and has procedures for financing provisions of the order.

3. *Q. What role does the government play in a self-help program using a marketing order?*

A. By law, final responsibility and authority in carrying out provisions of a marketing agreement or order rests with the Secretary of Agriculture. Traditionally, however, the Secretary has followed the recommendations of the industry board and has participated in the programs to protect the interest of individuals and the general public, and to be certain the program's administration follows the declared policy of Congress.

4. *Q. Does the legislation for marketing agreements and orders regulate markets?*

A. No. All legislation concerning marketing agreements and orders is enabling legislation only. It imposes no control over the marketing of any commodity—it doesn't even guarantee that any control will necessarily be established. It's merely the legal framework providing the farmer the basis to set up a program to stabilize his market.

5. *Q. What is the principal purpose of a marketing agreement or order?*

A. As set forth by Congress, to establish and maintain orderly marketing conditions for commodities in interstate commerce so that the farmer can achieve parity of income with other economic groups.

6. *Q. What does such a self-help program offer the farmer?*

A. It offers the farmer the means to strengthen his bargaining power in the national economy, and to have some of the advantages long enjoyed by industry.

7. Q. How does a self-help program using a marketing order differ from other agricultural measures?

A. The program differs from other adjustment plans in that it combines voluntary and regulatory control within a commodity industry. The program also is initiated, developed and directed by the industry.

8. Q. What are the expanded provisions in the Agricultural Act of 1961 that bear most directly on self-help programs?

A. The Act provides that *any* agricultural commodity is now eligible to come under provisions of a marketing agreement or order, unless it is specifically excluded in the Act. Provisions also authorize the Secretary of Agriculture to contact commodity groups to review needed legislation and programs.

9. Q. How may a commodity group start a self-help program?

A. The producers get together and select representatives to ask the Secretary of Agriculture for his assistance on their problem. If he thinks the situation warrants it, he may appoint a committee, representing all segments of the industry, to study the problem and submit to him a proposed plan of operation—a supply management program, a marketing order, or any other action thought necessary.

10. Q. Are public hearings held?

A. Yes. If the Secretary thinks the proposed marketing order will be helpful, he'll schedule public hearings so that all sides can present their arguments and submit evidence. There can be hearings held in the various regions in which the commodity is grown. Hearings are usually held not less than 15 days after date of publication in the Federal Register. On the basis of what is entered as evidence in the hearings, the Department of Agriculture issues what is called a recommended decision.

11. Q. Why only a recommended decision?

A. Because those who don't agree with the proposed decision are permitted by law to file exceptions. After these are reviewed, the Secretary can issue a final decision.

12. Q. What happens after the Secretary issues his final decision?

A. If the Secretary in his final decision has approved the proposed marketing order, it is submitted to producers for approval. They accept it only when two-thirds of them, or those producing two-thirds of the volume, approve it in a referendum.

13. Q. What constitutes a two-thirds vote?

A. A two-thirds majority means two-thirds of those voting in the referendum, and not two-thirds of all growers in the industry.

14. Q. How is the referendum handled?

A. Usually, voting is by mail. All ballots are secret. The producer is mailed a summary of the proposed program, and a ballot with a return envelope. County agents' offices can supply ballots also. The Department of Agriculture pays the cost of the referendum, and its field offices conduct the referendum.

15. *Q. Can a cooperative vote in a referendum?*

A. Yes, a cooperative can vote as a unit for its members—or the volume produced by the members, if the by-laws of the cooperative permit such a vote. A cooperative may also be the representative of a producer group to propose establishment of a marketing order.

16. *Q. Do handlers vote on a marketing order?*

A. No. The Secretary gives handlers an opportunity to sign a marketing agreement containing provisions of the proposed order.

17. *Q. What if the handlers don't accept the agreement?*

A. As long as producer approval has been given in referendum, the Secretary is authorized to issue an order anyway, and it is binding on all handlers of the commodity. The Secretary does this when he finds it is the only practicable way to carry out the objectives of the Act.

18. *Q. Can a handler contest the order or any of its provisions?*

A. Yes. He can request a review of the Secretary's order by the Judicial Officer of the Department of Agriculture, by special procedures, and the Judicial Officer's ruling is subject to appeal to a District Court of the United States.

19. *Q. Is a retailer bound by the order?*

A. No, not in his capacity as a retailer.

20. *Q. Who is a producer?*

A. Ordinarily, a person who assumes ownership risk in producing the commodity. A producer may be defined specifically in orders for particular commodities.

21. *Q. Who is a handler?*

A. A person who handles (for example, who grades, packs, sizes, processes, etc.) the commodity, as handling is defined in the order.

22. *Q. Do regulatory provisions in a marketing order apply to both?*

A. No, only to the handler. The producer is not regulated in his production. Regulations at the producer level would require the approval of Congress.

23. *Q. Can a producer be a handler?*

A. Yes, if he performs the handling functions.

24. *Q. Does the Secretary of Agriculture prepare the proposed marketing order?*

A. No. A proposed order originates with, and is planned by, the commodity group concerned. However, Department of Agriculture experts may be called upon to assist in the preparation of the proposed order.

25. *Q. Is the Secretary's decision on issuing a marketing order made on the basis of evidence submitted at the hearings?*

A. Yes. The proposed program must apply to the problems of the industry, offer a well-founded plan for market stabilization, protect the income of producers, and protect the consumer. Careful and full presentation of facts at the hearings is necessary.

26. Q. Can a marketing order program be stopped after it is in operation?

A. Yes. An order may be terminated by the Secretary of Agriculture at the end of a current marketing period whenever more than 50 percent of the producers, who produced during a representative period more than 50 percent of the volume of the commodity, request a termination. An order may be terminated, or suspended, by the Secretary also when he finds it obstructs or no longer tends to achieve the declared policy of the enabling legislation.

27. Q. Can a marketing order be amended?

A. Yes. After the program is established, amendments may be recommended to the Secretary of Agriculture by any interested party. To amend an order, the same general procedure is followed as for setting up the marketing order, with public hearings, a recommended decision and opportunity for any interested party to submit exceptions, then a final decision by the Secretary, and a referendum of producers.

28. Q. How is the board selected that administers the self-help program?

A. The board usually is selected by the Secretary of Agriculture from candidates nominated by producer and handler groups at meetings held for that purpose. Members serve for terms as specified in provisions of the marketing order.

29. Q. How big is the board?

A. The number of members is specified in the marketing order. A manager and staff may be hired by the board to carry out its directives.

30. Q. Who pays for administering the program?

A. The Secretary of Agriculture authorizes administering boards to collect assessments from handlers at a uniform rate for expenses. The boards do this by submitting an advance budget, and a proposed assessment, for the Secretary's approval.

31. Q. What regulatory provisions may be included in a marketing agreement or order?

A. Commodity marketing orders may specify grades, size, quality, pack or maturity of the commodity shipped to market. One or any combination of the following may be included: regulation of quantity of the product which may be shipped to market during a specified period; establishment of a reserve pool and equitable distribution of returns from its sale; surplus control and fixing size, capacity, weight, dimensions or pack of containers used in marketing. In addition, provisions to prohibit unfair trade practices and to establish price posting for handlers may be included in a marketing order. Marketing research and development may also be authorized along with other provisions.

32. Q. Under a rate of flow regulation, how is the quality of the commodity which may be shipped to market by each handler determined?

A. The total quantity is allocated among all handlers under a uniform rule on the basis of past performance of a handler, or the proportionate amount of the commodity the handler has available for current shipment.

33. *Q. What does surplus control mean?*

A. This involves determining the extent of a surplus, providing for the control and disposition of the surplus and for equalizing the burden of surplus elimination among producers and handlers.

34. *Q. How can a surplus be handled?*

A. Two examples would be by diversion to uses that will not compete with the primary market, or by selling in the foreign market.

35. *Q. What is handler price posting?*

A. Each handler is required to file selling prices, and to sell only at those prices. Handlers may change the prices at any time but adequate notice must be given.

36. *Q. What are market development and research projects?*

A. These are designed to assist, improve, or promote the marketing, distribution, and consumption of the commodity.

37. *Q. How are they paid?*

A. From the administrative funds collected by assessments on handlers.

38. *Q. Are there any requirements for the board?*

A. Yes. They are required to keep books; make audits; analyze growing and marketing conditions and make recommendations; give notice of meetings, regulations and policies, and must provide information requested by the Secretary of Agriculture.

39. *Q. Is there any check on board activities?*

A. Yes. The Secretary of Agriculture is authorized to examine the books, papers, records, accounts, correspondence, contracts, documents, and memoranda of the boards.

40. *Q. Can a marketing order directly fix consumer prices for a commodity?*

A. No. Price fixing is not permitted at any level.

41. *Q. Can producers be regulated by quotas on their production or sales in a marketing order?*

A. No. The Department of Agriculture recommended that farmers be permitted to use this authority in marketing orders but Congress did not provide it. Congress did provide that the Secretary may consult with committees of producers to determine the need for new legislation, and to make recommendations for legislative changes if there is a need for them.

42. *Q. What commodities were excluded in the Agricultural Act of 1961 from marketing order programs?*

A. Honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not turkeys), eggs (but not turkey hatching eggs), and fruits and vegetables for canning and freezing, with the exception of asparagus, olives, grapefruit, cherries, and cranberries, and apples in designated States.

43. *Q. Can a marketing order be nationwide?*

A. Yes, if the Secretary of Agriculture finds that a national order is necessary to effectuate the enabling legislation. Peanuts are by regions.

44. *Q. Are there any exemptions from a marketing agreement or order, or from regulations issued under the order?*

A. The marketing order usually specifies the types of shipments which are not covered and not subject to regulation.

45. *Q. How is a marketing order enforced?*

A. There are three types of legal action which may be taken against a person who violates an order: Civil action to obtain an injunction; civil action for forfeitures, and criminal action.

46. *Q. Are imports of a regulated commodity subject to similar regulations?*

A. Yes, for some commodities and under certain circumstances. Whenever the grade, size, quality or maturity of the following products produced in the United States is regulated by an order, the importation of any such commodity is prohibited unless the imported commodity complies with the same or comparable restrictions: tomatoes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates (other than dates for processing), and eggplants.

47. *Q. How do marketing orders for milk vary from those for other commodities?*

A. Basically, milk marketing orders fix minimum prices for producers. This is done by classifying milk according to use, and determination of minimum prices for the various uses. Another difference is in the administration of the marketing orders. For commodity crops, a board of handlers and producers directs the program. A Federal Market Administrator directs the milk order.



Growth Through Agricultural Progress